

## Message Text

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FOR EB/IFD - PREEG AND COMMISSIONER OF PATENTS - DANN

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TAGS: WIPO

SUBJECT: WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)  
PREPARATORY INTERGOVERNMENTAL COMMITTEE ON REVISION OF  
PARIS CONVENTION

SUMMARY: MEETING WAS LARGEST OF THE FOUR PREPARATORY MEETINGS LOOKING TOWARD REVISION OF PARIS CONVENTION WITH ABOUT 90 COUNTRIES, 70 INTERGOVERNMENTAL ORGANIZATIONS, AND 13 NON-GOVERNMENTAL ORGANIZATIONS IN ATTENDANCE, IN ALL ABOUT 200 PARTICIPANTS. GROUP B COUNTRIES MET DAILY AND MAINTAINED A REMARKABLY UNIFIED POSITION. POSITIONS BY GROUP B, GROUP OF 77, AND SOCIALIST COUNTRIES ON MAJOR AGENDA ITEMS WERE FURTHER DEFINED AND DIFFERENCES MORE CLEARLY IDENTIFIED IN PROPOSALS SUBMITTED BY THE THREE GROUPS. WORKING GROUPS ON TWO MAJOR ITEMS, (1) ARTICLE 5 A - WORKING OF A PATENT, IMPORTATION OF THE PATENTED ARTICLE PRODUCTION, SANCTIONS FOR NON-WORKING, AND (2) INVENTORS' CERTI-

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FICATES, WERE ESTABLISHED TO MEET IN FEBRUARY AND

MARCH. NEXT MEETING OF INTERGOVERNMENTAL COMMITTEE WILL BE HELD IN MONTREAUX IN JUNE (NO CONFERENCE SPACE FOR A MEETING OF THIS SIZE AVAILABLE IN GENEVA AT THAT TIME). END SUMMARY.

1. GROUP B MET ALL DAY ON NOVEMBER 22 UNDER CHAIRMANSHIP OF GROUP B COORDINATOR (BRAENDLI, SWITZERLAND). THEREAFTER GROUP B MET AT LEAST ONCE AND SOMETIMES TWICE DAILY. AS A RESULT OF THESE MEETINGS, AND AN EARLIER SMALL INFORMAL WORKING GROUP (7 GROUP B COUNTRIES) IN PARIS (OCTOBER 30-31), THERE WAS BROAD AGREEMENT AMONG GROUP B COUNTRIES THROUGHOUT MEETING. (REPRESENTATIVE OF THE EC COMMISSION, HARRIS, HEAD OF DIVISION OF INTELLECTUAL PROPERTY LAW, SAT IN GROUP B MEETINGS AS OBSERVER AND WITH PERMISSION OF GROUP B COUNTRIES.)

2. ON BASIS OF CONSULTATION AMONG THE THREE GROUPS AND THE SECRETARIAT, FOLLOWING PRINCIPLE OF ROTATION AMONG THESE GROUPS, IT WAS AGREED THAT A SOCIALIST COUNTRY SHOULD CHAIR MEETING. OFFICERS WERE: CHAIRMAN, POLAND (SZOMANSKI, PRESIDENT, PATENT OFFICE); VICE-CHAIRMAN, JAPAN (MATSUIE, DIRECTOR, TRIAL EXAMINING DEPARTMENT, PATENT OFFICE); CAMEROON (EKANI, DIRECTOR GENERAL, AFRICAN INTELLECTUAL PROPERTY ORGANIZATION).

3. DISCUSSION CONCERNING POSSIBLE REVISION OF ARTICLE 5 A OF PARIS CONVENTION WAS BASED ON A DOCUMENT PREPARED BY THE SECRETARIAT. REVISED TEXT COULD BE INVOKED ONLY BY DEVELOPING COUNTRIES MEMBERS OF THE PARIS CONVENTION PROVIDED THEY EXPRESSED DESIRE TO DO SO. SUBJECTS DISCUSSED UNDER THIS ITEM WERE WORKING (I.E. MANUFACTURING) OF A PATENTED INVENTION IN AN LDC, IMPORTATION OR NON-IMPORTATION OF AN ARTICLE COVERED BY A PATENTED INVENTION, SANCTIONS FOR NON-WORKING (E.G. COMPULSORY LICENSING), AND GOVERNMENT EXPLOITATION "BY REASON OF VITAL PUBLIC INTEREST" (E.G. HEALTH). GROUP B COUNTRIES OFFERED NUMEROUS CONSTRUCTIVE SUGGESTIONS CONCERNING REVISIONS OF THE WIPO DOCUMENT. LDC'S PROCEEDED TO DRAFT A NEW PAPER WHICH REFLECTED LIMITED OFFICIAL USE

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NONE OF GROUP B SUGGESTIONS. LDC DRAFT WAS MUCH MORE RESTRICTIVE AND WOULD BE PARTICULARLY DETRIMENTAL TO INDUSTRY IN DEVELOPED COUNTRIES. FOR EXAMPLE, IT WOULD PERMIT IMPORTATION OF ARTICLES COVERED BY THE PATENTED INVENTION BY ANYONE WITHOUT REMUNERATION AND WOULD ALLOW COMPULSORY LICENSING WITHOUT REMUNERATION OF PATENTEE. AFTER BRIEF EXCHANGE OF VIEWS, IT WAS DECIDED THAT A WORKING GROUP OF LDC'S, DEVELOPED COUNTRIES (INCLUDING U.S.),

AND SOCIALIST COUNTRIES SHOULD MEET IN MARCH 1977 IN ATTEMPT TO RECONCILE THE DIFFERENCES.

4. "PREFERENTIAL TREATMENT FOR NATIONALS OF DEVELOPING COUNTRIES" INVOLVES (1) REDUCTION OF FEES FOR PROCEDURE LEADING TO THE GRANT OR REGISTRATION OF PATENT OF NATIONAL OF A DEVELOPING COUNTRY IN A FOREIGN COUNTRY, AND (2) EXTENSION OF TERM OF PRIORITY FOR PATENTS AND TRADEMARKS FOR NATIONALS OF DEVELOPING COUNTRIES. LDC'S OUTLINED A NUMBER OF OBJECTIONS TO THE WIPO DOCUMENT WHICH DISCUSSION WAS BASED. DEVELOPED COUNTRIES ALSO BROADLY CRITICIZED THE DOCUMENT (E.G. PREFERENTIAL TREATMENT FOR NATIONALS OF LDC'S COULD CAUSE PROBLEMS CONCERNING "MOST FAVORED NATION" PROVISIONS ON INDUSTRIAL PROPERTY IN A NUMBER OF OUR FCN TREATIES). AS A CONSEQUENCE, WIPO SECRETARIAT WAS INSTRUCTED TO PREPARE NEW PAPER ON THE SUBJECT FOR NEXT MEETING OF INTERGOVERNMENTAL COMMITTEE.

5. DEBATE ON "INVENTORS" CERTIFICATES" WAS LENGTHY AND SPIRITED. AT URGING OF USDEL, GROUP B ADOPTED STRONG POSITION ON PROPOSED AMENDMENTS TO PARIS CONVENTION ADVANCED BY SOVIET DELEGATION. A' GROUP B PROPOSAL WAS SUBMITTED TO THE COMMITTEE WHICH, IN ESSENCE, STATED THAT A MEMBER STATE OF PARIS CONVENTION WAS NOT OBLIGED TO GIVE ANY BENEFITS BASED ON AN INVENTOR'S CERTIFICATE IN ANOTHER MEMBER STATE (E.G. USSR) EXCEPT UNDER CERTAIN SPECIFIED CONDITIONS (E.G. APPLICANTS HAVE RIGHT TO APPLY AT THEIR OWN OPTION, ON THE SAME INVENTION EITHER FOR A PATENT OR AN INVENTOR'S CERTIFICATE; ANY EXCLUSIVE RIGHT CONNECTED WITH AN INVENTOR'S CERTIFICATE DOES NOT HAVE A LONGER DURATION THAN A PATENT). SOVIET DELEVATION REJECTED LIMITED OFFICIAL USE

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GROUP B PROPOSAL OUT OF HAND. SEVERAL GROUP B COUNTRIES MADE STATEMENTS IN SUPPORT OF THE PAPER AND URGED SOVIETS TO CONSIDER .NET RESULT WAS THAT A WORKING GROUP WAS SET UP CONSISTING OF REPRESENTATIVES OF THE THREE GROUPS OF COUNTRIES (INCLUDING U.S.) TO ASCERTAIN OF COMMON GROUND FOR AGREEMENT CAN BE FOUND. WORKING GROUP WILL MEET IN FEBRUARY.

6. AGENDA ITEM ON "UNANIMITY ON QUALIFIED MAJORITY" FOR AMENDING PARIS CONVENTION WAS DEFERRED UNTIL JUNE 1977 MEETING.

7. WITH STRONG DIRECTION FROM USDEL, HEAD OF UK DELEGATION (ARMITAGE, COMPTROLLER GENERAL OF BRITISH PATENT OFFICE) WAS CHOSEN AS GROUP B COORDINATOR

FOR THE CRUCIAL PERIOD UP TO AND INCLUDING JUNE MEETING.

8. NEXT MEETING OF INTERGOVERNMENTAL COMMITTEE WILL  
BE HELD IN MONTREUX, JUNE 13-25, 1977, BECAUSE NO  
ADEQUATE CONFERENCE SPACE IS AVAILABLE IN GENEVA OR  
LAUSANNE AT THAT TIME. AGENDA WILL INCLUDE ALL ITEMS  
OF NOVEMBER MEETING PLUS TWO ADDITIONAL ITEMS. CATTO

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